

EXHIBIT 2

1 STATE OF ILLINOIS)
2 COUNTY OF C O O K) SS:

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CRIMINAL DIVISION

1 THE PEOPLE OF THE STATE)
5 OF ILLINOIS,)
6 Plaintiff,) Nos. 03 CR 08607-01
7 vs.) 03 CR 08607-02
8 JOHN FULTON, and)
9 ANTHONY MITCHELL,)
Defendants.)

REPORT OF PROCEEDINGS of a Ruling on Petition
for Actual Innocence, had at the hearing in the
above-entitled cause before the Honorable LeRoy K.
Martin, Jr., Judge of said court, on the 21st day of
February, 2020.

15 | APPEARANCES:

16 HONORABLE KIMBERLY M. FOXX,
State's Attorney of Cook County, by:
17 Mr. Andrew Horvat,
Assistant State's Attorney,
18 appeared on behalf of the People;

19 Ms. Andrea Lyon,
appeared on behalf of Defendant Fulton;

21 Mr. Robert Kerr,
appeared on behalf of Defendant Mitchell.

22 Lisa A. Ciarrachi, CSR, RPR
23 Official Court Reporter
2650 S. California Ave., Rm. 4C02
24 Chicago, Illinois 60608
License No. 084-00453

1 THE COURT: Anthony Mitchell. John Fulton.

2 THE SHERIFF: Mitchell's here, Judge.

3 MR. HORVAT: Good morning, your Honor. Andrew
4 Horvat, H-o-r-v-a-t, for the People.

5 MS. LYON: Your Honor, Andrea Lyon for John
6 Fulton.

7 MR. KERR: Morning, your Honor. Robert Kerr,
8 K-e-r-r, on behalf of Anthony Mitchell, present in
9 court.

10 MS. LYON: Ms. Matusek (phonetic) sends her
11 apologies, she has pneumonia, so.

12 THE COURT: Sorry to hear that, but I certainly
13 understand.

14 MS. LYON: Yeah.

15 THE COURT: All right. We have all gathered
16 here this morning, after having heard argument and
17 received documents and pleadings and exhibits from
18 everyone, and the Court appreciates everyone's
19 patience and indulgence in allowing me a little time
20 to consider this matter a little further.

21 I'm going to try and keep my comments short;
22 however, just preliminarily, let me just say to you, I
23 may use the word Petitioner or Movant or him, I mean
24 that in the plural, in as much as I know that,

1 although both Mr. Fulton and Mr. Mitchell have
2 separate petitions, because we've considered these
3 matters together, I may use the plural, but I am
4 speaking about both of them individually.

5 Having said that, I will -- I will embark on
6 my comments.

7 I have considered the arguments presented by
8 Counsel; I have considered -- I have read, reread,
9 pondered and mulled over all the exhibits,
10 transcripts, videos and pleadings. This, to be
11 certain, has been a difficult case. Maybe even more
12 so by the excellent presentation by each of the
13 Counsel here this morning.

14 I'm now going to take a moment to review the
15 necessary -- or the elements that are necessary that
16 the Movant or Movants must satisfy in order to be
17 granted the certificate of innocence.

18 Certain things are clear to me, and I really
19 believe that this case boils down to really one of
20 those elements. And it's clear to me that the -- that
21 the Movant --

22 MS. LYON: Your Honor, I just want to let you
23 know that Mr. Fulton just arrived.

24 THE COURT: All right, very well. Good

1 morning, sir.

2 It is clear to me, and I find, that the
3 Movants have proved -- well, let me back up.

4 So, as I said a few moments ago, there are
5 certain standards that the -- that the Movants must
6 satisfy in order to be granted the certificate of
7 innocence. One of those standards, of course, is that
8 the Movant -- plural, Movants -- were each convicted
9 of one or more felonies; sentenced to a term of
10 imprisonment; and served any part of that sentence.

11 I think it is without contest that each of
12 the Movants was, in fact, convicted of one or more
13 felonies; they were, in fact, sentenced to a term of
14 imprisonment; and served part of that sentence. Not
15 all of that sentence.

16 The judgment of conviction was vacated, and
17 that, in fact, the Petitioners have satisfied that
18 element. And the Movants were not retried, and
19 indictments were dismissed. And that is exactly what
20 has happened here. The sentences -- the judgment of
21 conviction were vacated; the Movants were not retried;
22 and the indictments were dismissed.

23 So, that leaves us, frankly, with whether or
24 not the Movants are actually innocent, and whether or

1 not the Movants did something to bring about their own
2 convictions.

3 I know the State has spent time discussing
4 or arguing that the Movants brought about their own
5 convictions, but I don't -- I don't believe they have.
6 I believe that a fair argument can be made that they
7 have, but I don't believe they have.

8 So, for me, in determining this matter, it
9 really comes down to whether or not I believe that the
10 Movants have satisfied the element of proving
11 themselves or proving that it is more likely than not
12 that they are innocent.

13 As the Movants have pointed out, they
14 needn't present a perfect case. But the burden,
15 nonetheless, remains with them to show to this Court,
16 or to the Court, that they are innocent of the
17 offenses charged.

18 In the end, I -- I wrestle with this case
19 and I expressed to you on a prior occasion of some of
20 my frustration and -- with this, and I suppose it's a
21 testament to how well all of you presented your
22 matters that I needed additional time to consider the
23 matter, and I have.

24 And in the end, I believe that the -- that

1 while the Movants have raised compelling arguments, I
2 am unconvinced that the Movants are able to satisfy
3 the element of actual innocence.

4 In large part, that rests upon my belief
5 that Mr. Mitchell gave a credible statement. I looked
6 at the -- I looked at that statement, I looked at
7 Mr. Mitchell give that statement, and while we can
8 argue about some of the details of that statement, it
9 appears to me, through his demeanor; his coolness;
10 his -- the way he -- he spoke and the way he was able
11 to fill in certain details, it convinced my of the
12 truthfulness of at least what I consider to be very
13 important parts of that statement.

14 Additionally, I considered the statements by
15 Precious, or Ms. Griffin. I considered her statements
16 as well, and her conversations that she had with both
17 Mr. Mitchell and Mr. Fulton at various times. And I
18 know, we could debate some of the details, and I've
19 debated and considered all of those things, over and
20 over and over again.

21 But nonetheless, the burden remains with the
22 Petitioner. And I don't believe that the Court has to
23 satisfy itself about every little point, but
24 ultimately, be convinced that the Petitioners are

1 actually innocent. And considering Mr. Mitchell's
2 statement; considering the statements by Ms. Griffin,
3 or Precious; as well as the events leading up to this
4 horrific crime -- and that is, more specifically,
5 Mr. Fulton's desire to arrange the purchase of a
6 firearm.

7 Considering all of those things together, I
8 just remain unconvinced that the Petitioners are able
9 to sustain their burden.

10 So I must respectfully deny both
11 Mr. Fulton's and Mr. Mitchell's petitions. And that,
12 ladies and gentlemen, is how I see it.

13 MS. LYON: Your Honor, obviously, we are very
14 disappointed. We intend to appeal this matter, so
15 we'll let you know.

16 THE COURT: I expected that you would.

17 MS. LYON: Okay. We will file a notice of
18 appeal today.

19 THE COURT: All right.

20 MS. LYON: Okay.

21 THE COURT: I anticipated, knowing you as I do
22 and knowing your reputation as I do, I anticipated.

23 MS. LYON: Um, okay.

24 MR. HORVAT: Thank you, Judge.

1 MR. KERR: Thank you, Judge.

2 THE COURT: All right, thank you.

3 (Which were all the proceedings
4 had in the above-entitled cause.)

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I, Lisa A. Ciarrachi, an Official Court Reporter for the Circuit Court of Cook County, County Department-Criminal Division, do hereby certify that I reported in shorthand the proceedings, had at the above-entitled cause; that I thereafter caused the foregoing to be transcribed into typewriting, which I hereby certify to be a true and accurate transcript of the proceedings, had before the Honorable LeRoy K. Martin, Jr., Judge of said court.

22 Dated this 3rd day of March, 2020.